

**MINUTES OF THE
MEDICAL LICENSING BOARD OF INDIANA**

**Meeting held
March 24, 2005**

**9:00 A.M.
CONFERENCE CENTER ROOM C
INDIANA GOVERNMENT CENTER SOUTH
302 WEST WASHINGTON STREET
INDIANAPOLIS, INDIANA**

I. CALL TO ORDER

Dr. Lankford called the meeting to order at 9:46 a.m. in Conference Center Room C, 302 West Washington Street, Indianapolis, Indiana and declared a quorum in accordance with IC § 25-22.5.

Members Present:

Bharat H. Barai, M.D., President
N. Stacy Lankford, M.D., Vice-President
Richard Krejsa, D.O.,
Worthe Holt, M.D., Secretary
Barbara Malone, J.D., Consumer Member
Ralph Stewart, M.D.,
William H. Beeson, M.D.

Members Not Present:

Staff Present:

Angela Smith Jones, Board Director, Health Professions Bureau
Jeanette Roberts, Assistant Board Director, Health Professions Bureau
James Schmidt, Legal Counsel, Office of the Attorney General
Gordon White, Legal Counsel, Office of the Attorney General

II. ADOPTION/AMENDMENTS TO THE AGENDA

A motion was made and seconded to adopt the agenda as amended.

Krejsa/Stewart
Motion carried 5/0/0

III. ADOPTION/AMENDMENTS TO THE MINUTES

A motion was made and seconded to adopt the minutes of January 27, 2005.

Krejsa/Stewart
Motion carried 5/0/0

IV. PROBATIONARY APPEARANCES
(Before one member of the Board only)

The physicians listed below, appeared per their order and no other issues arose during the probationary appearance:

Vishwanath S. Gundur, M.D.
Bryan Smith, M.D.
Glenn Ballengee, D.O.
Timothy Cook, M.D.
Mark Doyle, M.D.
Fred Moss, M.D.
Deborah Provisor, M.D.
James Ranochak, M.D.
Jan Alan Mayer, M.D.
Thomas K. Rollins, M.D.
Andrew R. Wyant, M.D.
Jeffrey Seizys, M.D.

V. PERSONAL APPEARANCES
Re: Initial Application

A. Mark Bryniarski, M.D.: Dr. Bryniarski appeared last month and withdrew his application. He resubmitted his application for consideration by the Board. He appeared with counsel, Susan Ziel. He explained that his Kansas license has been reinstated in good standing since last month's appearance. His Washington State temporary medical license is expired. He has been under the care of a psychiatrist for over 5 years and continues to see her. He benefits from continuing to see her. He explained that his triggers are situations involving stress. This incident, currently before the Board occurred 6 years ago. The Board asked about the status of his New Mexico license. Dr. Bryniarski told the Board that it has stipulations on it. He is coming to Indiana for additional training. He has applied for a full license in Kansas, although he has not received it. The new information does not give the Board great comfort. Based upon the past actions taken by the other boards, the Board wants a new psychiatric evaluation to set them at ease in issuing a probationary license. They want things cleaned up in Kansas as well.

Barai, told Dr. Bryniarski that the Board needs the order from Kansas and a new psychiatric evaluation by a board approved psychiatrist. After receipt of that new information, then the Board will consider issuing a probationary license.

A motion was made to table the application.
Stewart/Barai
7/0/0

B. Brandon Covert, D.O.: This is Dr. Covert's second appearance before the Board. He was requested to provide additional information to the Board, including a new psychiatric evaluation. He did not submit a new psychiatric evaluation to the Board, rather he submitted an evaluation which was done previously in his medical career. Dr. Covert explained that it was a two day thorough evaluation that was done at RUSH. The board has concerns with his demeanor and wants another evaluation.

He submitted the RUSH evaluation and wanted to use that in lieu of a new evaluation. He prefers Indiana as opposed to the other states where he holds licensure (Missouri, Illinois, and Michigan). There has been nothing since his last evaluation. He is a radiologist. A letter from his current group and a recent psychiatric evaluation are still desired by the Board to collaborate the evaluation from RUSH from years ago.

A motion was made to table the application until the Board receives a letter from this current group and an up to date psychiatric evaluation.

Stewart/Beeson
6/0/1 (Malone abstained.)

C. Peter David Holt, M.D.: Dr. Holt did not appear before the Board.

D. Thomas Dodge Huntington, M.D.: Dr. Huntington had several malpractice cases. One was in January 2000, when a cardiac consult was done. The patient went home pain free with nitro spray and 11 hours later she was brought back into the Emergency Room in full cardiac arrest and died 45 minutes later. The case settled for \$550,000. The second case occurred in December 2000, when a male presented to the Emergency Room with pneumonia. He was discharged and advised to quit smoking. He died three days later from complications of pneumococcal pneumonia and sepsis. This case settled for \$275,000. Then another action was brought in 2001, but was dropped and he has one case pending.

A motion was made to grant licensure.
Beeson/Lankford
6/0/0

E. William Mize, M.D.: Dr. Mize appeared before the Board because Memorial Hospital in South Bend has been recruiting him as a child specialist. This is regarding his letter of concern issued by Rhode Island and the action taken in Texas. He was not aware of the Texas action when he completed his application. He has a letter from Rhode Island that they have never taken action against him. When he left Rhode Island after completing his fellowship, he had a couple of Medicaid patients who had trouble getting a new physician and they filed complaints against him. He returned to Rhode Island and addressed the matter and it was resolved.

A motion was made to grant licensure.
Beeson/Stewart
6/0/1 (Barai abstained.)

F. Francis Mathieu, M.D.: Dr. Mathieu did not appear before the Board.

G. Segun Rasaki, M.D.: Dr. Rasaki has not completed his residency training. He did 9 months of an elective at Methodist, however he did not complete that program and he is now in a different program. He has gone from the family practice program at Indiana University where he did one year as a PGY 1 to California where he is two months into his PGY2. He has a total of 18 months completed. We need a letter from Dr. Osburn confirming that he is in the residency program. As an FMG he must

complete 2 years of post graduate training to be eligible for licensure. There is only documentation of completion of 16 months, he needs to complete 6 more months. Until he can provide us with documentation, he is not eligible for a license.

A motion was made to table the application pending proof of completion of 24 months of accredited post grad training.

Stewart/Krejsa

5/0/1 (Malone abstained)

- H. Robert S. Tumacder, M.D.:** Dr. Tumacder was a substance abuser; his drug of choice was I.V. Fentanyl. The Board noted that I.V. means he had to use it at work. Dr. Tumacder went to treatment at RUSH and his sobriety date is September 18, 1998. His license has never been disciplined. He has not spoken with Candace, but is willing to speak with her. The board would like to advise him to stay away from anesthesia all together, which is the typical recommendation of other Boards.

A motion was made to grant him licensure.

Holt/Beeson

Dr. Stewart wants him to have a probationary license and wants to see a contract with ISMA, and addictionologist evaluation.

The motion was amended to table this application until he voluntarily signs a contract with ISMA. The board does not want him to have a probationary license, but they do want him to be monitored. He did complete the Illinois monitoring program, which was for 5 years.

Dr. Holt and Dr. Beeson are willing to accept the amendment.

A motion was made to table the application until next month after he is evaluated by ISMA.

5/0/0

VI. ADMINISTRATIVE HEARINGS

A. STEVEN E. ROSS, M.D. (CONTINUED)

Cause No.: 2004 MLB 0022

Re: Final Hearing

B. MARK HAYES, M.D.

Cause No.: 2004 MLB 0007

Re: Preliminary/Final Hearing

Parties and Counsel Present:

Jim Holden is counsel for the State of Indiana.

Respondent is not present nor is counsel present on Respondent's behalf.

Participating Board Members:

Dr. Krejsa (hearing officer)

Dr. Lankford

Dr. Barai
Dr. Stewart
Ms. Malone
Dr. Holt
Dr. Beeson

Witnesses: None.

Case Summary: The Board took official judicial notice of its file in this matter. The matter of the hearing is related to his disappearance and failure to make arrangements for any of his patients to receive treatment or their records. He has been evicted from his office space in Martinsville. The landlord has not been able to locate any medical records and Respondent has not notified his patients of his new whereabouts. The State explained their attempts at notice. Service was made by overnight mail to the address of record and the state telephoned Dr. Hayes at the last known telephone number.

This is a final hearing today, the State requested the Board to move for a notice of proposed default.

Board Action: A motion was made to issue a Notice of Proposed Default.

Stewart/Krejsa
Motion carried 7/0/0

C. SALLY BOOTH, M.D.

Cause No.: 1998 MLB 0027
Re: Petition for Reinstatement

Parties and Counsel Present:

Steven Douglas was present on behalf of the State.
Mike McMains was present for Respondent.
Sally Ann Booth, M.D.

Participating Board Members:

Ms. Malone (hearing officer)
Dr. Stewart
Dr. Krejsa
Dr. Holt
Dr. Lankford
Dr. Barai
Dr. Beeson

Witnesses:

Dr. Booth
Candace Backer

Case Summary: The parties presented a settlement agreement for the Board's consideration. There were fraud allegations, specifically the fact that Dr. Booth may not have been forthcoming on her application for medical school and her residency program at the Mayo Clinic. After investigation by the State, there was no fraud

committed by Dr. Booth. The State does not oppose the petition for reinstatement. However, because she does have a history of substance abuse, they believe that she does need to be monitored.

They have agreed upon some probationary terms of Indefinite probation:

- ◆ After 5 years she may petition for termination of probation
- ◆ She must maintain a contract with ISMA for the 5 years
- ◆ She needs to have a supervisor appointed/approved by the board
- ◆ The supervisor to submit monthly reports to the Board
- ◆ She can be employed in dermatology, but may not be employed by her father, or anyone else closely related to her. She must be employed by an impartial, independent physician.
- ◆ She must be in a group practice for at least one year, if after one year she has practiced medicine accordingly, she may petition for modification of this term.
- ◆ There are limitations on number of hours worked, she may work no more than 50 hours per week.
- ◆ Dr. Booth must appear before the board monthly for 6 months and quarterly thereafter.

Candace Backer: Ms. Backer testified on behalf of Dr. Booth's recovery. She signed a contract with ISMA on February 25, 2004. The terms above would adequately protect the public. Dr. Booth has been sober since April 5, 2002. She has been urine screened for the past year for 52 screens (the most requested), and other documentation, consults with Candace, psychiatric evaluation, AA meetings, etc. She has had 3 – 4 relapses since 1996. (1996, 1998 1999, 2002)

The Board has concerns about Dr. Booth's competence outside of the substance issues.

Booth: She took the SPEX and passed in December 2004. She has been continuing with CME, going to dermatology conferences at I.U. weekly, and other conferences and meetings for dermatologists. She has obtained 175 documented hours in CME. Dr. Jeffery Travers, the Chair of Dermatology at I.U. has allowed her to attend clinic with him for the past year, following him and discussing cases. She has also been doing that with Dr. Wolverton a professor of dermatology. She also attended grand rounds with them. She explained her job duties at the bio-tech firm. She became president of the company in 2003 and 2004. She is still working as a consultant for them. She has been in therapy with Janis Link, M.S., for several years. She has been volunteering at the Gennesaret free clinic. She is an assistant on the van approximately once per month.

Respondent's exhibit 1: A letter from Janis Link.

Respondent's ex. 2: A letter from the Gennesaret Clinic

Her triggers are working too much, not taking care of herself, and lack of rest. There is one pending malpractice case based upon treatment performed in 1999 by Dr. Booth. She has settled three other malpractice suits one case was dropped. She explained the cases to the Board. The cases settled for \$75,000, \$30,000 and \$60,000 respectively.

Respondent's Exhibit 3: Affidavit from Robert G. Weddle, Esq.

Board Action: A motion was made to accept the settlement.

Holt/Stewart

Motion carried 5/0/2 (Beeson/Malone abstained.)

D. PHILIP A. BOREN, M.D.

Cause No.: 2004 MLB 0019

Re: Final Hearing/Settlement Presentation

Parties and Counsel Present:

Steven Douglas was present on behalf of the State.

Susan Ziel was present for the Respondent.

Participating Board Members:

Dr. Barai (hearing officer)

Dr. Stewart

Ms. Malone

Dr. Krejsa

Dr. Holt

Dr. Lankford

Dr. Beeson

Witnesses: None.

Case Summary: The parties presented an agreement which was initially filed with the Board on January 24, 2005. Dr. Boren appeared before the Board in 2003 to discuss his renewal application. On that renewal application he failed to disclose that he was arrested for battery in 2001 and convicted in March 2002. The state proposed that he pay a \$500.00 fine and receive a letter of reprimand.

Board Action: A motion was made to accept the agreement.

Stewart/Kresja

Motion carried 7/0/0

E. STEVEN MASON, M.D.

Cause No.: 2004 MLB 0041

Re: Final Hearing

Parties and Counsel Present:

James Holden was present on behalf of the State.

David Becsey was present for the Respondent.

Dr. Steven B. Mason

Participating Board Members:

Dr. Stewart (hearing officer)

Ms. Malone

Dr. Krejsa

Dr. Holt

Dr. Lankford

Dr. Barai
Dr. Beeson

Witnesses:

Dr. Mason
Gretchen Yordy
Paul Tow, R.Ph.
Jamie Six, R.Ph.

Case Summary: Dr. Mason was witnessed consuming alcoholic beverages, namely beer, in his office during business hours. Additionally, he has been accused of making sexual advances toward his female employees and currently has charges pending.

Opening statements were made by each party. The State explained that it is going to show a pattern of professional misconduct and that Dr. Mason is unfit to practice medicine.

State's Exhibit 1: Transcript from April 22, 2004.

State's Exhibit 2: Certified copy of deposition taken of Dr. Mason on Nov. 10, 2004. The State directed the Board's attention to specific pages and statements in the record.

Gretchen Yordy: She works with the state police as an undercover police officer. She went to see Dr. Mason posing as a patient. She requested diet pills, as he is known to prescribe diet pills. He mentioned that there was a rumor going around that he would prescribe diet pills. She got a script for Phentermine, but was never asked any medical history questions. Savannah Kline was her name for the visit.

State's Exhibit 3: Detective Yordy's report of the visit
State's Exhibit 4: A copy of prescription from 11/19/04

She was sure to tell him that she was going 100 miles an hour because she knew that diet pills were uppers. She went to see him again at his Greensburg office. They did interact and discuss her weight gain of 2.5 lbs. and what she ate, etc. He gave her another prescription of the same drug for a higher dosage. She paid for the visit in cash.

State's Exhibit 5: Detective Yordy's report from the second visit
State's Exhibit 6: Copy of prescription from 12/14/04.

Dr. Mason: Told the Board his work history. He worked at Decatur County Memorial Hospital from July 2002 and worked there for a year and ½. The then he opened his own practice January 5, 2004. From 1999 – 2002 he did a family practice residency in Kentucky. Then in July 1998, he began an internal medicine residency at I.U. he was in the air force for a period and was discharged as a captain in 2003. He was dissatisfied when he was in his internal medicine rotation at I.U. and thought about resigning, but they encouraged him to stay. He did, for another 3 months and then he was addressed by a program director and saw the report as a probationary report. He did not want to be on probation so he left the program.

State's Exhibit 7: Personal statement of Dr. Mason to Decatur County Hospital .
State's Exhibit 8: Certified copy of his application as a physician.

He described how he approached his other employee B.M. and grabbed her bottom. He wanted to have sexual intercourse with her and later asked her out on a date. He testified that he was having sex with women in his office. Yes, he did have extra marital affairs.

He has heard of "pill doctors", but he is not one. He did hear that it was rumored that he was a diet pill patient. The state questioned Dr. Mason about his prescription habits and his patient base. He no longer takes insurance, he'll take cash or personal checks under certain circumstances. He has two houses, one in Greensburg and one in Indianapolis. He now has his medical office in Carmel as of February 2005. He has 817 charts from his Greensburg practice. Now his patients come from Greensburg and the east side of Indianapolis. He averages 7 – 8 patients per day.

Cross: He no longer consumes alcohol at his office. If he consumes alcohol it is at home with his family. His wife is aware of all of this and they are trying to work things out. Ms. Nomer was never seen as a private patient. He knew her mother and he saw Ms. Nomer because she asked him to see her daughter.

Respondent's Exhibit B: Letters and documents regarding his residency training
Respondent's Exhibit A: Letter from Richard B. Kohler, M.D. in response to an inquiry from Decatur County Memorial Hospital regarding Dr. Mason's training.

The State reviewed the details of the report and letter submitted by Dr. Kohler. The report is unfavorable towards Dr. Mason.

The Board asked questions of Dr. Mason.

Respondent's Exhibit C: Medical Records of Savannah Klein
Respondent's Exhibit D: Office rules and procedures.

He left Westport Clinic, a site of Decatur County Hospital, after 18 months because that was how long his contract was. It was a group practice situation at the Westport Clinic.

Paul Tow, R.Ph.: He is a licensed pharmacist. He works at Meijer Pharmacy in Carmel, IN. He met Dr. Mason one time at the store when Dr. Mason came to the pharmacy, introduced himself as the new doctor in town and told them that his patients would be cash patients. Dr. Mason also asked if they offered discounts for cash payments and asked if they kept injectables. He has been a pharmacist for over 25 years and has never experienced this. He felt like he was being interviewed. This was early to mid-February of 2005. All of his patients have presented with controlled substances (Oxycodone, etc.) and all of his patients paid cash.

State's Exhibit 9: Print out of narcotic sales report for Dr. Mason from Meijer in Carmel. (Objection based upon lack of notice of the witness.)

The patients were from Rushville, Knightstown, etc., not from Carmel. The patients did seem to carpool when they arrived at the pharmacy. They were concerned (the pharmacists) and looked him up on-line and then called the DEA to see if anything was awry. There were no scripts for blood pressure, diabetes, or antibiotics. This concerned them because the patients said that he was their primary care and not a pain specialist. For a regular general practitioner, this is a high volume of controlled substances. On average, about 8% of a general practitioner's prescriptions are for controlled substances.

Jamie Six, R.Ph.: She is a registered pharmacist from CVS at 86th and Ditch. She talked with Dr. Mason on his cell phone on Monday. The subject of the conversation was Oxycontin. The patient was a cash patient from Connersville. She thought that was odd, coming from that far away, etc. She called the land line and was re-directed to the cell phone number.

State's Exhibit 10: Print out of narcotic sales report for Dr. Mason from CVS at 86th and Ditch. (Objection based upon lack of notice of the witness.)

She called the Greensburg CVS and they informed her that he was under investigation. The state asked the board to take judicial notice of the state map of Indiana.

Dr. Mason wanted to develop a professional relationship with the pharmacists in hopes that they would assist him in reporting any odd behavior of his patients. He testified that he did write other prescriptions.

Closing remarks were made by each party.

The Board deliberated on the record.

Board Action: A motion was made to Revoke the license, charge a \$1000.00 fine, and cost of proceedings monies to be due within 90 days.

Lankford/Beeson
5/2/0(Malone/Holt opposed)

F. DAVID VINCENT FISCHER, M.D.

Cause no.: 2004 MLB 0013

Re: Preliminary Hearing – Extension of Summary Suspension

Parties and Counsel Present:

Sara Matticks was present on behalf of the State.

Respondent is not present nor is counsel present on Respondent's behalf.

Participating Board Members:

Dr. Lankford (hearing officer)

Dr. Stewart

Ms. Malone

Dr. Krejsa

Dr. Holt

Dr. Barai

Dr. Beeson

Witnesses: None.

Case Summary: Dr. Fischer is currently facing a 41 count federal indictment, which was originally sealed when it came out on April 2, 2004. A couple of employees notified the authorities and lodged complaints against Dr. Fischer. Currently, there are several charges pending against Dr. Fischer and an ongoing investigation. One of the charges filed against Dr. Fischer is submitting false information to a federal program. On April 15th, 2004, the indictment was unsealed and the Federal magistrate released him so he could go back to the practice of medicine. He did voluntarily surrender his DEA license.

Dr. Fischer has pled guilty to several drug related charges and the state is awaiting the order. His sentencing date is set for May, 2005. The state requested the board to renew the summary suspension for an additional 90 days.

Board Action: A motion was made to continue the Summary Suspension for an additional 90 days.

Stewart/Holt
Motion carried 7/0/0

G. MARK WEINBERGER, M.D.

Cause no.: 2004 MLB 0035

Re: Preliminary Hearing – Extension of Summary Suspension

Parties and Counsel Present:

James Holden was present on behalf of the State.

Respondent is not present nor is counsel present on Respondent's behalf.

Participating Board Members:

Dr. Holt (hearing officer)

Dr. Stewart

Ms. Malone

Dr. Krejsa

Dr. Lankford

Dr. Barai

Dr. Beeson

Witnesses: None.

Case Summary: The Board took official judicial notice of its file in this matter. The matter of the hearing is related to his disappearance and failure to make arrangements for any of his patients to receive treatment or their records. He has been evicted from his office space in Martinsville. The landlord has not been able to locate any medical records and Respondent has not notified his patients of his new whereabouts. The State explained their attempts at notice. Service was made by overnight mail to the address of record and the state telephoned Dr. Hayes at the last known telephone number.

Respondent's criminal trial has been rescheduled until May of 2005. The State requested the board to extend the Summary Suspension and to issue a Notice of Proposed Default.

Board Action: A motion was made to continue the Summary Suspension for an additional 90 days and to issue a Notice of Proposed Default.

Lankford/Stewart
Motion carried 7/0/0

H. JOHN E. DOLATOWSKI, M.D.

Cause No.: 2004 MLB 0039

Re: Final Hearing

Parties and Counsel Present:

Laura Wilford was present on behalf of the State.

Respondent is not present nor is counsel present on Respondent's behalf.

Participating Board Members:

Dr. Krejsa (hearing officer)

Dr. Stewart

Ms. Malone

Dr. Holt

Dr. Lankford

Dr. Barai

Dr. Beeson

Witnesses: None.

Case Summary: The state moved for a continuance because of miscommunications with Dr. Dolatowski.

Board Action: A motion was made to continue the hearing.

Holt/Lankford
Motion carried 7/0/0

I. MICHAEL SETH MILLER, D.O. (CONTINUED)

Cause No.: 2004 MLB 0030

Re: Final Hearing

J. SUBU DUBEY, M.D.

Cause No.: 2004 MLB 0045

Re: Final Hearing

Parties and Counsel Present:

Steve Douglas was present on behalf of the State.

Respondent is not present nor is counsel present on Respondent's behalf.

Participating Board Members:

Dr. Barai (hearing officer)
Dr. Stewart
Ms. Malone
Dr. Krejsa
Dr. Holt
Dr. Lankford
Dr. Beeson

Witnesses: None.

Case Summary: The Respondent signed a Consent Order with the North Carolina Medical Board, voluntarily surrendering his North Carolina license. This action was based upon Respondent's mismanagement in his practice and questions about his clinical competence. The United States government initiated criminal action against Dr. Dubey alleging that Dr. Dubey did willfully prevent, obstruct, mislead, and delay the communication of information and records relating to a violation of a federal health care offense to a criminal investigator, and did aid and abet others in doing so. Respondent signed a plea agreement with the United States government in settlement of the charges. He was ordered to serve 21 months in prison and pay restitution of \$492,792.56. Subsequently, the North Carolina Board revoked his license.

The state asked for a notice of proposed default to be issued.

Board Action: A motion was made to issue a notice of proposed default.

Stewart/Lankford
Motion carried 7/0/0

K. ARUNACHALAM THIRUVENGDM, M.D. (CONTINUED)

Cause No.: 2004 MLB 0036
Re: Final Hearing

L. JACK KEVIN ROLL, M.D.

Cause No.: 2004 MLB 0011
Re: Final Hearing

Parties and Counsel Present:

Sara Matticks was present on behalf of the State.
Respondent is not present nor is counsel present on Respondent's behalf.

Participating Board Members:

Dr. Beeson (hearing officer)
Dr. Stewart
Ms. Malone
Dr. Krejsa
Dr. Holt
Dr. Lankford
Dr. Barai

Witnesses: None.

Case Summary: In March 2004, Dr. Roll took a lethal dose of Klonopin. He was revived and Dr. Bowling evaluated him for psychiatric care. Dr. Bowling recommended that Dr. Roll be admitted for psychiatric care. On March 12, 2004, Dr. Bowling petitioned for the committal of Dr. Roll. After a hearing on the matter, Dr. Roll was committed to Deaconess Hospital.

The State requested the Board to Issue a Notice of Proposed Default and renew the Summary Suspension for an additional 90 days.

Board Action: A motion was made to issue a notice of proposed Default and renew the Summary Suspension for an additional 90 days.

Barai/Stewart
Motion carried 7/0/0

M. MAURO AGNELNERI, M.D. (CONTINUED)

Cause No.: 2004 MLB 0005
Re: Preliminary/Final Hearing

N. VALENTINO J. BIANCHINI, M.D.

Cause No.: 2004 MLB 0038
Re: Motion to Dismiss

Parties and Counsel Present:

Steve Douglas was present on behalf of the State.
Respondent is not present nor is counsel present on Respondent's behalf.

Participating Board Members:

Dr. Stewart (hearing officer)
Ms. Malone
Dr. Krejsa
Dr. Holt
Dr. Lankford
Dr. Barai
Dr. Beeson

Witnesses: None.

Case Summary: The State explained to the Board that with further investigation they found that Dr. Bianchini is deceased. The State filed a Motion to Dismiss with the Board for these reasons.

Board Action: A motion was made to dismiss the cause of action against Dr. Bianchini as he is deceased.

Stewart/Lankford
Motion carried 7/0/0

O. GERALD GENE GRAY, D.O.

Cause No.: 2005 MLB 0018

Re: Petition for Summary Suspension

Parties and Counsel Present:

Sara Matticks was present on behalf of the State.

Michael Cork was present on Respondent's behalf.

Gerald Gray, D.O.

Participating Board Members:

Ms. Malone (hearing officer)

Dr. Stewart

Dr. Krejsa

Dr. Holt

Dr. Lankford

Dr. Barai

Dr. Beeson

Witnesses:

Det. Douglas Young

Eugene McRoberts

Jackie Mitchell

Tommy Willis

Laura Hyatt, R.Ph.

Dr. Gray

Case Summary: Dr. Gray had a Michael Meinhart working for him practicing medicine in his office. Ultimately, it was discovered that Mr. Meinhart had graduated from medical school but had not passed any exams nor done a residency. He has never been licensed as a physician in Indiana or any state. Mr. Meinhart was arrested and charged with the felony of practicing medicine without a license. He was arrested on 5 counts of practicing without a license. They arrested him at the Oakland City Clinic. The state is asking the board to suspend the license for 90 days to allow the state to continue its investigation.

Douglas Young, Police Chief, Oakland city, IN – Gibson County – He was asked by Officer John Daniels to investigate Mr. Meinhart in regards to a prescription pad found at his place of employment belonging to Dr. Gray. He also had information that Meinhart did not have a medical license.

Officer Daniels went to Dr. Gray regarding the prescription pad. Officer Daniels asked Dr. Gray for a copy of Mr. Meinhart's medical license. Dr. Gray informed Officer Daniels that Mr. Meinhart did not need a license because he was practicing under his license. Det. Young told the mayor of Oakland City that they had an issue with Mr. Meinhart practicing without a license. He attempted to verify that Meinhart did not have a license to practice medicine. The Medical Licensing Board verified this over the phone. They also gave him a written statement verifying that he (Mr. Meinhart) did not have a license to practice medicine in Indiana.

State's Exhibit 1: Certification from Medical Licensing Board that Michael Meinhart does not hold a medical license.

Later, a pharmacist from Oakland city called the police and reported suspicious prescriptions and the signatures on the scripts. She had also contacted the state pharmacy board inspector Bob Bloss. Oakland City Pharmacy is owned by Rebecca Belamy and employs Laura Hiatt a pharmacist. Rebecca Belamy is also employed at Dr. Gray's office.

He had a conversation with Laura Hiatt. Laura was instructed to fill any scripts that came thru with Dr. Gray's name on it. 12/2/2004 thru 12/5/2004 Dr. Gray was in Indianapolis at that time and several scripts were written and filled. He spoke with Dr. Gehlhausen the other physician in the practice, his nurse, said that Dr. Gray and Dr. Gehlhausen were in Indy at a conference during that time. After review of the files he determined that Mr. Meinhart had seen Dr. Gray's patients. He saw at least 1/2 of Dr. Gray's patients during that time.

State's Exhibit 3: He took a photo on January 23, 2005 of the Oakland Pharmacy sign.

State's Exhibit 4: Photos of Medical Degrees of Mr. Meinhart's found on the wall at Dr. Gray's office.

State's Exhibit 5: Photos of the stethoscope and the white coat that Mr. Meinhart wore at the Oakland City Clinic.

Eugene McRoberts: She is an LPN at a Good Sam Nursing home in Oakland City. She knows Michael Meinhart. She called Dr. Gray's office about a patient and Dr. Gray told her that Mr. Meinhart would be coming over and filling in for him. Mr. Meinhart examined the female patient. Her superiors have not given her any indication that they feel that he is an immediate threat.

Jackie Mitchell: From August 2003 until June 2004, she was employed by Dr. Gray. Rebecca Belamy works at the office too. Dr. Gray often leaves signed script pads around the office. She was treated by Meinhart as a physician. Mike was Dr. Gray's computer guy and she knew him from that job. Meinhart examined her daughter, diagnosed her, recommended treatment and drew blood. Her daughter was 12 years old at the time. She too was examined by Meinhart. He wrote her a script after her visit with him. She saw Meinhart prepare the prescription.

State's Exhibit 6: A copy of the prescription written by Meinhart for Jackie Mitchell

Mitchell brought her medical records to Dr. Gray. She's comfortable with R's care. Has no formal medical training. She knew that Meinhart had gone to medical school when she worked there as his diploma from medical school was hanging on the wall.

Tommy Willis: Dr. Gray has been his family physician since he was born. He also knows Meinhart. Meinhart looked at his tooth when he went in for a tooth ache. Then Meinhart gave him a prescription for Loritab. He has a two year old child and she was vomiting excessively, so he called the office. Meinhart gave him a prescription for his daughter without seeing her.

State's Exhibit 8: A copy of the prescription that Meinhart wrote for Willis.

Fred's pharmacy in Oakland City filled the script.

Laura Hyatt, R.Ph.: she works at the Oakland pharmacy as a pharmacist. Dr. Gray led her to believe that Meinhart was licensed and had allowed his license to expire so he was letting Meinhart work under him until his license numbers were reissued. They told her that Dr. Wells communicated with them on behalf of the Medical Licensing Board and said that what they were doing was acceptable and they later went out for hot dogs together. She was left with the perception that what Gray was doing was acceptable practice.

State's Exhibit 2: Copies of prescriptions written for Dr. Gray signed by Becky Bellamy.

Respondent's Exhibit A: copies of prescriptions written for Tiana Brown written for Gray

Respondent's Exhibit B: copies of prescriptions written for Clesta Culbertson written for Gray

Dr. Gray: He met Meinhart when he was a computer guy who worked on computers in his office. He has four employees in his office, a receptionist, a nurse, a coder and one other employee. Rebecca Bellamy is his nurse. She went to nursing school for 2 years and has worked as his nurse for 35 years for him as his nurse without a license.

Meinhart told him one day that he was a physician. He did not believe him. But they talked more and he told him he did an internship in New York and a residency in Chicago. When his (Meinhart's) parents got sick, he came home to take care of his parents. He hired Mr. Meinhart to work as an assistant, like a medical student. He hired him December 2nd, 2004. The arrangement was that he was to do lab work and respiratory treatments. He also told him he could renew scripts after he looked at the chart if he thought they were acceptable.

He believes that a person who goes to medical school can be called a doctor, but he never held Meinhart out as a licensed physician. The patients who saw Meinhart and thought he was a physician were the few patients he was not able to tell that Meinhart was not licensed. He became aware that Meinhart was not a licensed physician in late December 2004 early January 2005. He found out when Sandy Barrett called and asked Dr. Gray for Meinhart's license number.

He saw the sign on the pharmacy next door and was aware that Becky put it up. Meinhart would see patients, come back with Dr. Gray and they would discuss patient care, etc.

The State recalls the chief of police, Det. Young. She asks him about the records that they removed from Dr. Gray's office. He states that the judge only allowed them to remove records with dates from December 1, 2004 to February 18, 2005 for review. Dr. Gray's office provided a list of patients that had been seen during that time frame and they used that to get the records.

Gray: Dr. Gray testified that he has 3-4,000 patients. He is 69 years old and has been practicing for over 40 years.

Respondent's Exhibit C: Copies of the University information and credentials which Meinhart gave Dr. Gray

Dr. Gray asked Meinhart to produce these documents in December when he began to inquire about Meinhart's licensure.

Respondent's Exhibit D: Affidavit of Terry C. Gehlhausen, D.O.

The state objected to exhibit F.

Respondent's Exhibit F: Letters of support from Dr. Gray's patients

Meinhart was paid \$20.00 per hour. Meinhart saw patients without Dr. Gray being present, did Dr. Gray ever bill patients for medical care in those instances? He probably did submit insurance statements to the insurance companies for patients that Meinhart saw. This looks like he took advantage of Meinhart of someone who was in a weaker position with no options and charged full CPT codes for the patients he saw. He never thought of it that way. He wanted to help Meinhart. He never checked his billing and his CPT codes. Now he realizes that it would have been better to hire a qualified and licensed nurse or physician assistant.

The Board questioned Dr. Gray on Meinhart's use of the SOAP and placing those notes in the patient charts. That is diagnosing and treating, which is practicing medicine.

Closing arguments were made by both sides.

The state requested the Board summarily suspend his license for 90 days. Respondent's counsel pleaded with the Board to allow him to keep his license and the State can still bring a full complaint on the matter. He states that it will do more harm than good for the community. The suspension is not warranted. The Board deliberated on the record.

Board Action: A motion was made to Summarily Suspend the license for 90 days.

Lankford/Stewart

Motion carried 4/2/1 (Holt/Barai opposed Malone abstained)

VII. PRE-HEARING CONFERENCES

The Pre-hearing conferences were held before one member of the Board.

9:00 A.M. JUAN CARLOS MEJIA, M.D.
Cause No.: 2003 MLB 0015

9:05 A.M. GEOFFREY A. GENDELS, M.D.
Cause No.: 2005 MLB 0008

9:10 A.M. PAUL DAVID GOODRICH, M.D.
Cause No.: 2005 MLB 0006

9:15 A.M. PETER ALFRED BERTANI, M.D.
Cause No.: 2005 MLB 0003

9:20 A.M. MARK EDWARD LOGAN, M.D.
Cause No.: 2005 MLB 0001

9:25 A.M. ARKAN I. ALRASHID, M.D.
Cause No.: 2004 MLB 0040

VIII. ACTIONS ON ADMINISTRATIVE LAW JUDGE ORDERS:

A. JAMES GAITHER, M.D.
Cause No.: 1999 MLB 0003

A motion was made to affirm the ALJ proposed order.

Krejsa/Malone
Motion carried 7/0/0

IX. NOTICE OF PROPOSED DEFAULT

A. ANTONIO TIU QUE, M.D.
Cause No.: 2002 MLB 0041

Parties and Counsel Present:

Steven Douglas was present on behalf of the State of Indiana.
Respondent is not present nor is counsel present on Respondent's behalf.

Participating Board Members:

Dr. Barai (hearing officer)
Dr. Stewart
Ms. Malone
Dr. Krejsa
Dr. Holt
Dr. Lankford
Dr. Beeson

Witnesses: None.

Case Summary: There has been no response of any kind. Respondent reportedly lives in New York. The state requested the Board to default Dr. Que.

Board Action: A motion was made to default the Respondent.

Stewart/Lankford
Motion carried 7/0/0

This complaint is based upon out of state discipline. He was charged with 13 counts of professional misconduct, gross incompetence, and gross negligence. His New York license was suspended until such time as he was remediated. The state has

tried to contact Dr. Que without any success. The state has no choice but to ask for revocation or suspension.

Board Action: A motion was made to revoke.

Krejsa/Lankford
Motion carried 7/0/0

X. DISCUSSION ITEMS:

- a) Kevin Smith, PA-C
Re: Modification of Probation
A motion was made to grant him a hearing before the full Board.

Krejsa/Stewart
Motion carried 7/0/0

- b) Jeffrey M. Seizys, M.D.
Re: Review of Probationary Order and lack of CSR Language

Upon review of the order, Dr. Seizys has an active CSR.

- c) George Parker, M.D.
Re: Addition to Board Approved Psychiatrists

A motion was made to approve Dr. Parker and add him to the list.

Holt/Krejsa
Motion carried 7/0/0

- d) Mark G. Doyle, MD
Re: Petition for modification of probation

He wants to get his CSR and DEA back. A motion was made to grant a hearing before the full board. They want a letter from a psychiatrist or therapist saying that they feel he is doing well and that the psychiatrist is okay with him getting his CSR back.

Beeson/Lankford
Motion carried 7/0/0

- e) David Youran
Re: Petition for Appeal of Denial of Licensure (ACU)

A motion was made to grant the hearing and to appoint the Acupuncture Committee as the ALJ for the Board.

Stewart/Holt
Motion carried 7/0/0

- f) Paul Kevin Barkal, M.D
Re: Order to Show Cause – California Action
A motion was made to have an order to show cause hearing.

Lankford/Krejsa
Motion carried 7/0/0

- g) Physician Renewals
Re: Possible new question on survey

A motion was made to inform Claudia Seigel that Question B is the best one.

Holt/Malone
Motion carried 7/0/0

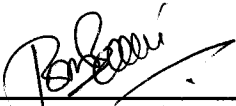
XI. PERMIT/LICENSURE APPLICATIONS

A motion was made and seconded to approve all recommendations and decisions made by the Board members on applications for licensure that were reviewed throughout the Board meeting and at any other time since the last Board meeting.

Krejsa/Stewart
Motion carried 7/0/0

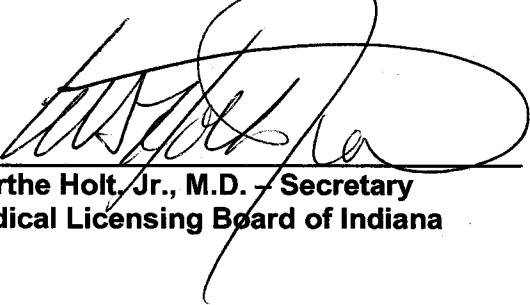
XII. ADJOURNMENT

There being no further business and having completed its duties, the meeting of the Medical Licensing Board of Indiana adjourned at 1:06 a.m. on Friday, March 25, 2005.



Bharat Barai, M.D. – President
Medical Licensing Board of Indiana

4/28/05
Date



Worthe Holt, Jr., M.D. – Secretary
Medical Licensing Board of Indiana

4/28/05
Date